IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

NOTICE OF MOTION NO. 2214 OF 2004
IN
APPEAL NO. 467 OF 2004
IN
PETITION NO.540 OF 1989
IN
TESTAMENTARY SUIT NO.71 OF 1989

Pushpa Prabhaschand Jain & ors. .. Appellants
v/s.

Rakesh Phoolchand Jain .. Respondent

Mr.M.S.Sanghvi with Ms. Bhatia i/by M/s. Zaidy & Co. for appellants.

Mr.R.V.Govilkar for respondent.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 18th August, 2004

P.C.

Heard.

2. No reply affidavit has been filed by the respondent in opposition to the notice of motion. The averments made in the affidavit in support of the notice of motion, thus, remain uncontroverted.

3. We are, thus, satisfied that the appellants were prevented by sufficient cause in appearing before this court on 29th July, 2004 when the appeal came to be dismissed in default.

4. We, accordingly, recall the order dated 29th July, 2004 and restore the appeal to file.

5. Notice of motion stands disposed of.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)